

### **Rule 305. Trust Funds; Fiduciaries**

(a) Accounts and Reports. A fiduciary charged with the care of administration of property, appointed by the Court or required to file bond with it for faithful discharge of the fiduciary's trust, or otherwise acting under the authority, supervision or direction of the Court, shall account and report as herein provided, unless said fiduciary be acting under the probate branch of the Court. An account and report, verified by the fiduciary's oath, shall be filed annually with the Clerk within 30 days after the anniversary date of the fiduciary's appointment, or if not appointed by the Court, within 30 days after the anniversary date of the order bringing the fiduciary under its authority, supervision or direction. The account shall contain an itemized statement of all receipts and disbursements for the preceding annual period. The report, to be made on a form furnished by the Clerk, shall list with detailed particularity (1) all real and personal assets of the estate, (2) where each item thereof is located, kept or deposited, (3) the name in which each is held, (4) the value of each, (5) any sale, transfer or other disposition of assets, (6) any investment or change in form of assets and the name in which it stands, (7) the penalty of the fiduciary's undertaking, (8) the date when the undertaking was filed, (9) the name of the surety, and (10) the value of the estate when the undertaking was filed. A similar report shall be filed by the fiduciary within 60 days after appointment by the Court or, if not so appointed, within 60 days after the order bringing the fiduciary under its authority, supervision or direction.

(b) Audit and Examination. Upon filing of an annual account and report the Clerk shall forthwith deliver the same to the Auditor-Master or his or her deputy, who shall promptly audit the account, examine all securities (except as provided in subparagraph (1) hereof), check them with the report and ascertain the correctness of all reported deposits. Thereupon he or she shall file a report of the findings with the Clerk. However, the Auditor-Master or his or her deputy shall not file with the Clerk the transcript of proceedings and of the evidence and the original exhibits as prescribed by SCR-Civil 53(e)(1).

(1) In those fiduciary cases where a bank is serving as fiduciary, in lieu of exhibiting all securities the bank may submit an affidavit from an official of the bank, other than the officer signing the account, verifying the correctness of the securities and cash accounts as set forth in the fiduciary's account, and that same are being held in the custody of the fiduciary.

(c) Expenditures, Irregularity or Default: Auditor-Master or His or Her Deputy to Report. All expenditures from an estate by a fiduciary, except those provided by statute and court costs, shall be made only upon prior authorization of the Court. Failure of a fiduciary to obtain prior Court authority for expenditures, other than those provided by statute and court costs, shall constitute an irregularity in the administration of the estate and such expenditures shall be disallowed as a charge to the estate upon annual accounting except for good cause shown. Whenever in any case there comes to the Auditor-Master's or his or her deputy's attention an apparent irregularity or default in administration of a trust estate or an insufficiency in the amount or security of an undertaking he or she shall immediately advise the Court thereof, which upon a summary hearing, shall remove the fiduciary and appoint a successor, unless for good cause shown the irregularity or default in administration or the insufficiency in the

amount or security of an undertaking is deemed excusable. The Court may also take such further summary action as the Court may see fit.

(d) Auditor-Master Fees for Review of Fiduciary Accounts. The Clerk shall be paid a fee for all audits and examinations made pursuant to this Rule according to the fee schedules hereinafter set forth, and in every such case the fee prescribed herein shall be deemed a reasonable fee for the services rendered by the Auditor-Master.

(1) *Audits and Examinations Under Paragraph (b)*. The fee to be assessed by the Deputy Auditor-Master for audit and examination of an account and report to the Court pursuant to paragraph (b) of this Rule is set forth in the schedule below.

			Costs
\$500	or less		No Cost
500.01	to	\$2,500	\$15
2,500.01	to	10,000	50
10,000	but less than	25,000	100
25,000	but less than	50,000	150
50,000	but less than	75,000	250
75,000	but less than	100,000	350
100,000	but less than	500,000	575
500,000	but less than	700,000	825
700,000	but less than	1,000,000	1,275
1,000,000	but less than	2,500,000	1,800
2,500,000	but less than	5,000,000	2,300
5,000,000	and over		2,300
			plus 0.02% of excess over \$5,000,000

In addition to the fee prescribed in the above schedule, in those instances where during the course of the audit, the Auditor-Master finds it necessary to take testimony and/or obtain records, documents or other written instruments not furnished by the fiduciary, the Court may allow such additional fees and costs as it may deem proper.

(2) *Examinations Under Paragraph (f)*. In all cases where, pursuant to paragraph (f) of this Rule, the account of a fiduciary has been approved without audit the fee for examination of securities and verifying deposits upon the basis of their total value is in accordance with the following schedule:

Less than \$2,500	No Cost
\$2,500 but less than \$10,000	\$15
\$10,000 but less than \$50,000	\$30
\$50,000 plus	\$60

provided, that the fiduciary may require securities to be examined where they are kept, in which event there shall be an additional fee of \$25, but credit will not be allowed therefor unless in the Court's opinion the expenditure was justifiable.

(3) *Court Costs Attributable to Real Estate in the District of Columbia*. Additional court costs in the amount of \$25 shall be assessed in all accounts wherein real property or

properties in the District of Columbia, of whatever value, are carried as an account asset. If proceeds of the sale of real property are included, court costs shall be assessed in accordance with subparagraphs (d)(1) and (d)(2) of this rule.

(4) *Computation of Court Costs.* For the purposes of determining the initial costs under paragraph (d) of this rule, the value of the account shall include: (1) the initial gross principal value of the assets of the account as determined by the Deputy Auditor-Master; (2) the gross value of any increase in the principal value of any account realized upon disposition (other than upon distribution to beneficiaries of the account) by the fiduciary; and (3) the gross value of any income reported by the fiduciary in periodic accounts to the Court, but shall exclude the value of real property in the account except as otherwise provided in subparagraph (d)(3) of this rule. In determining the court costs upon the audit of subsequent accounts, allowance shall be made for costs previously assessed.

(5) *Time of Payment.* The costs to be collected by the Deputy Auditor-Master under this paragraph shall be paid at the time of filing the first account except as otherwise provided herein. Subsequent costs, if any, determined under paragraph (d) of this rule shall be assessed and paid at the time of filing each subsequent annual account of the fiduciary.

(6) *Review of Fees.* Following the close of each fiscal year, the Auditor-Master shall review the fees assessed by the Auditor-Master's office during such year and shall file with the Chief Judge a report of fees assessed and collected so that the Court may make such changes, alterations or additions to the foregoing fee schedule as it considers appropriate.

(e) *Failure to Account and Report; Removal of Fiduciary.* The clerk for good cause shown may extend the time for filing an account or report. If an account or report is not filed within the prescribed time the clerk shall promptly report the fact to the Court, which upon a summary hearing shall remove the fiduciary and appoint a successor, unless for good cause shown the failure is deemed excusable. The Court may also take further summary action to compel filing of the account or report.

(f) *Account; Approval Without Reference to Auditor-Master or His or Her Deputy.* An account of the fiduciary may, in the Court's discretion, be approved without reference to the Auditor-Master or his or her deputy upon the filing of a petition with the Court setting forth that all beneficiaries in being, including remaindermen, have consented thereto, and attaching to said petition their written consents. A guardian or committee may consent for his or her ward except when he or she is the accounting fiduciary. In no event shall examination of securities and deposits by the Auditor-Master or his or her deputy be excused. At the time of filing the petition, the fiduciary shall submit a proposed order. No account shall be approved without reference to the Auditor-Master or his or her deputy in any case in which a beneficiary or remainderman has died, until a suggestion of death has been filed supported by a certificate of death and until said deceased beneficiary or remainderman's estate's representative has appeared and consented thereto.

(g) *Statement of Distribution and Settlement.* Promptly after full distribution and settlement of a trust estate the fiduciary shall file with the clerk a verified statement to that effect, together with vouchers, receipts, or cancelled checks evidencing final distribution.

(h) Nonresident or Absent Fiduciary to File Power of Attorney. A fiduciary who is or becomes a nonresident of the District of Columbia or is continuously absent therefrom for more than 60 days, shall within 10 days after qualifying as fiduciary or becoming such nonresident or absentee, file with the Clerk of the Court a like power of attorney to that provided by Title 20, Section 365 of the District of Columbia Code (1967) [§ 21-110, 2001 Ed.], except that the same shall run in the name of the Clerk and the Clerk's successor in office. Failure to file the power of attorney within the time provided shall be cause for removal of the fiduciary from office.

(i) Upon the death of the person for whom the fiduciary is appointed, the fiduciary shall file a suggestion of death forthwith, and shall file a final account and report verified by the fiduciary within 60 days from the date of death.

(j) Unless otherwise ordered by the court for good cause shown, this rule shall not apply to any proceeding, the purpose of which is (i) the appointment of a trustee, substituted trustee or successor trustee under an instrument in which the fiduciary was not otherwise under the authority, supervision or direction of the court, (ii) the judicial passing and approving of an accounting tendered to the court by a resigning trustee or by the personal representative of a deceased trustee, or (iii) an acting trustee seeking instructions or construction of the governing instrument.

(k) Appraisal. Within the period of 90 days from the date of appointment, a fiduciary shall engage the services of a qualified appraiser to inventory and appraise all tangible personal property in the ward's estate provided the value of said property, in the judgment of the fiduciary, exceeds the value of \$1,000.00. If said property, in the judgment of the fiduciary, is valued at \$1,000.00 or less, the fiduciary shall submit an affidavit setting forth the description and the value of the tangible personal property.

(l) Sale of Property. A conservator or committee shall not sell or otherwise dispose of estate property or encumber it without prior order of court.